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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/735,551	12/14/2000	Satoshi Kidooka	P20361	6566

7055 7590 09/24/2002

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EXAMINER

LAM, ANN Y

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

LC

Office Action Summary

Application N .

09/735,551

Applicant(s)

KIDOOKA, SATOSHI

Examiner

Ann Y. Lam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2002 .
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischer, 5,269,684. Fischer discloses an annular, protruded wall (46), which is spaced outwardly from an outer periphery of the ejection hole, which is protruded forwardly, and which surrounds an exit of the ejection hole, see column 6, lines 33-42, and lines 50-56.

As to claim 2, a wall surface extending between the outer periphery of the ejection hole and the annular, protruded wall is defined by a tapered surface or a curved, concave surface, see column 6, lines 33-42, and lines 50-56, and Figure 4.

As to claim 3, a wall surface extending between the outer periphery of the ejection hole and the annular, protruded wall is defined by a planar surface perpendicular to an axis of the ejection hole, see Figure 4.

As to claim 4, a wall surface of the annular, protruded wall is parallel to an axis of the ejection hole, see Figure 4.

As to claim 5, a wall surface of the annular, protruded wall (42 and 46) is defined by a forwardly spread surface or a forwardly constricted surface, see Figure 2.

As to claim 6, a cylindrical portion is disclosed at (28), and a leading end wall at a leading end of the cylindrical portion, the leading end wall having an ejection hole, see Figure 2, the leading end wall including a first wall surface (proximal portion of 28), and a second wall surface (distal portion of 28) are disclosed in column 6, lines 50-56.

As to claim 7, the first wall surface is conical, see Figure 2.

As to claim 8, the first wall surface is curved in section, see Figure 2.

As to claim 9, the first wall surface is planar in section, see Figure 2.

As to claim 10, the first wall surface is planar, see Figure 2.

As to claim 11, the second wall surface extends radially inwardly from the periphery of the first wall surface, see column 6, lines 33-42, and Figure 4.

As to claim 12, the second wall surface extends radially outwardly from the periphery of the first wall surface, see column 6, lines 33-42, and Figure 4.

As to claim 13-16, the ejection hole is considered a spray nozzle, and is considered to be configured to spray a liquid therethrough.

Response to Arguments

Applicant's arguments filed July 10, 2002 have been fully considered but they are not persuasive. Applicant argues that Fischer fails to teach an endoscopic spraying instrument, but is rather directed to a syringe like apparatus for applying viscous coatings. In response, Examiner asserts that Fischer discloses all the claimed elements and is considered to be a spraying instrument as claimed since it is capable of ejecting

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liquid in a similar manner as described by Applicant, see for example, page 6, lines 15-19 of Applicant's specification.

Applicant also argues that Fischer fails to teach a leading end wall having a first wall surface extending radially outwardly from the outer surface of the ejection hole, and also a second wall surface extending longitudinally outwardly the outer surface of the ejection hole, see page 3, lines 9-12. In response, Examiner asserts that Fischer discloses a first wall surface extending radially outwardly from the outer surface of the ejection hole, shown clearly in Figure 4, and as cited in column 6, lines 33-42, and lines 50-56. Helical ridges (44) show a surface extending radially outwardly from the outer surface of the ejection hole. As to the second wall surface extending longitudinally outwardly from an outer surface of the ejection hole, Examiner would like to point out that claim 6 recites "a second wall surface in the exterior of the cap member, the second wall surface extending longitudinally outwardly from *an outer periphery of the first wall surface*", see claim 6, lines 13-15 (emphasis added), as opposed to extending longitudinally outwardly from *an outer surface of the ejection hole*, as argued by Applicant. In any case, Examiner asserts that wall (28) extends longitudinally from the first wall surface, or alternatively, from the ejection hole. The term 'longitudinally' is a relative term, and as recited in the claims, does not distinguish the claims from the apparatus disclosed by the prior art.

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann Y. Lam whose telephone number is (703) 306-5560. The examiner can normally be reached on T-F 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on (703)308-3552. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3590 for regular communications and (703)306-4520 for After Final communications.

A.L. 
September 21, 2002


ANH TUAN T. NGUYEN
PRIMARY EXAMINER
